

**State of West Virginia
Title IV-E Foster Care Eligibility
Secondary Review
Report of Findings for
April 1, 2013 – September 30, 2013**

Introduction

During the week of March 17, 2014, the Children's Bureau (CB) of the Administration for Children and Families (ACF) conducted a secondary review of the West Virginia title IV-E foster care program. The review was conducted in collaboration with the Department of Health and Human Resources (DHHR) and was completed by a review team comprised of representatives from West Virginia DHHR's Bureau for Children and Families (BCF), CB Central and Regional Office (RO) staff, ACF Regional Grants Management Office and two peer reviewers.

The purposes of the title IV-E foster care eligibility review were (1) to determine whether West Virginia's title IV-E foster care program was in compliance with the eligibility requirements as outlined in 45 CFR §1356.71 and §472 of the Social Security Act (the Act); and (2) to validate the basis of the State's financial claims to ensure that appropriate payments were made on behalf of eligible children.

This secondary review was conducted as a result of the findings of the primary review completed during the week of May 16, 2011. At that time, West Virginia was determined not in substantial compliance with the title IV-E eligibility requirements for the period under review (PUR) of April 1, 2010 - September 30, 2010. As required, DHHR submitted a Program Improvement Plan (PIP) to correct the areas found deficient in its title IV-E foster care eligibility program. The PIP was jointly developed by DHHR and CB RO staff and approved in CB correspondence to DHHR dated February 24, 2012. The CB's approval of the PIP completion was based on the state's periodic reports of progress and final report of the planned improvements, which outlined the completion of the identified goals and action steps in the PIP. The PIP goals and activities included, but were not limited to, the following:

- Providing and facilitating training opportunities in collaboration with the Court Improvement Program (CIP) to ensure judicial determinations reflect title IV-E requirements as appropriate;
- Providing each Circuit Court judge and the West Virginia State Supreme Court of Appeals Administrative Office, on a quarterly basis, copies of court orders which did not meet title IV-E criteria to enhance documentation of applicable requirements;
- Ensuring adequate internal edits are in place through internal changes to the Statewide Automated Child Welfare Information System (SACWIS) to prevent payments for ineligible children or unallowable costs;
- Forming workgroups to create and implement new strategies to adequately and appropriately claim for title IV-E;
- Ensuring accurate Aid to Families with Dependent Children (AFDC) eligibility determinations through monthly training sessions and quarterly meetings of title IV-E eligibility staff; and

- Providing increased oversight of the title IV-E eligibility determination process and demonstrating a commitment to accuracy by completing quality assurance on 100% of eligibility determinations.

During the PIP implementation period, the state strengthened policies and practices as well as revised forms and procedures to ensure a more accurate title IV-E eligibility determination system. Key to the state's successful implementation of its PIP was the involvement of agency staff at all levels and jurisdictions, as well as representatives from partner agencies such as the judiciary and the CIP, in developing and carrying out the PIP. These efforts resulted in improved performance in the secondary review of findings related to the judiciary and AFDC determinations. All 150 cases reviewed were found to have timely and well-documented initial and ongoing judicial determinations as required. Additionally, there were no cases found in error due to not meeting the requirements for AFDC. There remain areas of poor performance, however, in unallowable program costs and a worsened performance in documenting congregate care safety requirements. A holistic programmatic improvement strategy which includes 100% case oversight would identify and correct these deficiencies.

Representatives from the local agency, title IV-E eligibility workers and supervisors, participated as reviewers during this subsequent secondary review; the CIP coordinator provided onsite consultation during the case review as well. The participation from the workers and supervisors helped further knowledge of title IV-E requirements and documentation expectations and develop increased understanding of the importance of accurate eligibility determinations and their role in that process.

Scope of the Review

The secondary review encompassed a sample of the state's foster care cases that received a title IV-E maintenance payment during the six-month PUR of April 1, 2013 through September 30, 2013. A computerized statistical sample of 180 cases (150 cases plus 30 oversample cases) was drawn from state data submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. One hundred fifty (150) cases were reviewed, which consisted of 133 cases from the original sample plus 17 oversample cases. Seventeen (17) cases were excluded from the original sample either because no title IV-E maintenance payment was made for an activity during the PUR or because the payment was returned to the federal government prior to the state's receipt of the review sample. The state provided documentation to support excluding these cases from the review sample and replacing them with the cases from the oversample.

In accordance with federal provisions at 45 CFR §1356.71, the state was reviewed against the requirements of title IV-E of the Act and federal regulations regarding:

- Judicial determinations regarding reasonable efforts and contrary to the welfare set forth in §472(a)(2)(A) of the Act and 45 CFR §§1356.21(b)(1) and (2), and (c), respectively;
- Voluntary placement agreements as set forth in §§472(a)(2)(A) and (d)-(g) of the Act and 45 CFR §1356.22;
- Responsibility for placement and care vested with state agency as stipulated in §472(a)(2)(B) of the Act and 45 CFR §1356.71(d)(1)(iii);
- Eligibility for Aid to Families with Dependent Children (AFDC) under the State plan in effect July 16, 1996 as required by §472(a)(3) of the Act and 45 CFR §1356.71(d)(1)(v);

- Placement in a licensed foster family home or child care institution as defined in §§472 (b) and (c) of the Act and 45 CFR §1355.20(a); and
- Safety requirements for the child's foster care placement as required at 45 CFR §1356.30.

The case file of each child in the selected sample was reviewed to verify title IV-E eligibility. The foster care provider's file also was examined to ensure the foster family home or child care institution in which the child was placed during the PUR was licensed or approved and that safety considerations were appropriately addressed. Payments made on behalf of each child also were reviewed to verify the expenditures were properly claimed under title IV-E and to identify underpayments that were eligible for claiming. A sample case was assigned an error rating when the child was not eligible on the date of activity in the PUR for which title IV-E maintenance was paid. A sample case was cited as non-error with ineligible payment when the child was not eligible on the activity date outside the PUR or the child was eligible in the PUR on the service date of an unallowable activity and title IV-E maintenance was paid for the activity date. In addition, underpayments were identified for a sample case when an allowable title IV-E maintenance payment was not claimed by the state for an eligible child during the 2-year filing period specified in 45 CFR §95.7, unless the title IV-E agency elected not to claim the payment or the filing period had expired.

The CB and the state agreed that subsequent to the onsite review, DHHR would have two weeks to submit additional documentation for a case that during the onsite review was identified as in error, in undetermined status or to have an ineligible payment. Documentation that ensured safety considerations for staff working in childcare institutions was not readily available during the onsite review which led to numerous cases initially determined to be in error. Because the state was not able to obtain all the documentation within the two week timeframe, West Virginia requested and was granted additional time to obtain and transmit documentation to resolve these errors. West Virginia was able to submit supplemental materials for a number of sample cases. Following a review of the documentation provided, 27 cases were changed from error to non-error, 23 of which involved providing documentation that safety standards were met for child care institutions. The outcome of our review of those materials is reflected below in the Case Record Summary for the error cases.

Compliance Finding

The review team determined that 130 of the 150 cases met eligibility requirements (i.e., were deemed non-error cases) for the PUR. Twenty (20) cases were determined to be in error for either part or all of the PUR. In addition, thirteen (13) non-error cases were ineligible for federal funding for a period of claiming. The total dollar value of the maintenance payments in the review sample was \$703,272 for the PUR of which \$79,258 represents maintenance payments for the thirty-three (33) error and non-error cases with ineligible payments. With the inclusion of associated administrative costs federal financial participation (FFP) for error cases claimed during the PUR, the total dollar error rate is 9.97 percent. These data indicate that although West Virginia's case error rate of 13.13 percent exceeds the 10 percent error case threshold, the dollar error rate of 9.97 percent was less than the 10 percent dollar error rate threshold.

Based on the review findings, CB has determined that West Virginia's title IV-E foster care program is in substantial compliance with federal eligibility requirements for the PUR. Substantial compliance in a secondary review is achieved when either the case error rate or

dollar error rate does not exceed 10 percent. States are found not in substantial compliance with federal title IV-E program requirements when both the case error rate and the dollar error rate exceed 10 percent. Additionally, sixteen (16) cases were identified in the review sample that had a period of eligibility for which the state did not claim allowable title IV-E maintenance payments. The additional findings for underpayments and for non-error cases with ineligible payments were not considered in determining the state's level of compliance. The next review, which will be a primary review, will be held within three years.

Case Record Summary

The following charts record the error cases; non-error cases with ineligible payments; underpayments; reasons for the improper payments; improper payment amounts; and federal provisions for which the state did not meet the compliance mandates.

Error Cases

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Maintenance Payments (FFP)	Improper Administrative Payments (FFP)
WV-02	Foster care maintenance payment made for period the agency did not have placement and care responsibility. [§472(a)(2)(B) of the Act; 45 CFR §1356.71(d)(1)(iii)] Ineligible: 05/22/2013-05/31/2013	\$139.96	\$0
WV-13	Foster care maintenance payment made for period before safety requirements were met for the caregiving staff of a child care institution [§471(a)(2)(20) of the Act; 45 CFR §1356.30(f)] Ineligible: 06/03/2013-07/11/2013	\$399.39	\$352.00
WV-18	Foster care maintenance payment made for period before safety requirements were met for the caregiving staff of a child care institution [§471(a)(2)(20) of the Act; 45 CFR §1356.30(f)] Ineligible: 04/30/2013-04/30/2013	\$14.21	\$0
WV-25	Foster care maintenance payment made for a period the agency did not have placement and care responsibility. [§472(a)(2)(B) of the Act; 45 CFR §1356.71(d)(1)(iii)] Ineligible: 05/06/2013-07/31/2013	\$1,213.06	\$1,057.00

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Maintenance Payments (FFP)	Improper Administrative Payments (FFP)
WV-39	Foster care maintenance payment made for period before safety requirements were met for the caregiving staff of a child care institution [§471(a)(2)(20) of the Act; 45 CFR §1356.30(f)] Ineligible: 09/12/2013-11/05/2013	\$2,573.61	\$ 715.00
WV-56	Foster care maintenance payment made for period the agency did not have placement and care responsibility. [§472(a)(2)(B) of the Act; 45 CFR §1356.71(d)(1)(iii)] Ineligible: 05/21/2013-05/31/2013	\$153.38	\$0
WV-85	Foster care maintenance payment made for the period of time in which safety requirements were not met for the foster home [§471(a)(20)(a) of the Act; 45 CFR §1356.30(a)-(c)] Ineligible: 06/04/2012-11/12/2013	\$5,253.25	\$3,840.00
WV-90	Foster care maintenance payment made for period before safety requirements were met for the caregiving staff of a child care institution [§471(a)(2)(20) of the Act; 45 CFR §1356.30(f)] Ineligible: 06/05/2013-10/16/2013	\$2,673.20	\$ 352.00
WV-100	Foster care maintenance payment made for period before safety requirements were met for the caregiving staff of a child care institution [§471(a)(2)(20) of the Act; 45 CFR §1356.30(f)] Ineligible: 06/07/2013-08/09/2013	\$4,036.44	\$ 352.00
WV-102	Foster care maintenance payment made for period before safety requirements were met for the caregiving staff of a child care institution [§471(a)(2)(20) of the Act; 45 CFR §1356.30(f)] Ineligible: 04/02/2013-11/20/2013	\$24,710.40	\$ 2,841.00

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Maintenance Payments (FFP)	Improper Administrative Payments (FFP)
WV-112	Foster care maintenance payment made for period before safety requirements were met for the caregiving staff of a child care institution [§471(a)(2)(20) of the Act; 45 CFR §1356.30(f)] Ineligible: 02/08/2013-07/10/2013	\$16,296.05	\$1,762.00
WV-125	Foster care maintenance payment made for period before safety requirements were met for the caregiving staff of a child care institution [§471(a)(2)(20) of the Act; 45 CFR §1356.30(f)] Ineligible: 04/05/2013-04/22/2013	\$1,918.34	\$ 352.00
WV-130	Foster care maintenance payment made for period before safety requirements were met for the caregiving staff of a child care institution [§471(a)(2)(20) of the Act; 45 CFR §1356.30(f)] Ineligible: 08/28/2013-09/30/2013	\$4,916.10	\$ 352.00
131	Foster care maintenance payment made for the period of time in which safety requirements were not met for the foster home [§471(a)(20)(a) of the Act; 45 CFR §1356.30(a)&(b)] Ineligible: 09/27/2013 – 09/29/2013	\$28.82	\$0
WV-136	Foster care maintenance payment made for period before safety requirements were met for the caregiving staff of a child care institution [§471(a)(2)(20) of the Act; 45 CFR §1356.30(f)] Ineligible: 02/04/2013-present	\$41,182.25	\$ 4,273.00
WV-143	Foster care maintenance payment made for period before safety requirements were met for the caregiving staff of a child care institution [§471(a)(2)(20) of the Act; 45 CFR §1356.30(f)] Ineligible: 02/21/2013-04/22/13 & 08/22/2013-present	\$24,284.52	\$ 2,510.00

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Maintenance Payments (FFP)	Improper Administrative Payments (FFP)
WV-148	Foster care maintenance payment made for period the agency did not have placement and care responsibility. [§472(a)(2)(B) of the Act; 45 CFR §§1356.71(d)(1)(iii)] Ineligible: 06/14/2013-06/30/2014	\$244.94	\$352.00
WV-OS10	Foster care maintenance payment made for the period of time in which safety requirements were not met for the foster home [§471(a)(20)(a) of the Act; 45 CFR §1356.30(a)-(c)] Ineligible: 08/17/2012-06/26/2013	\$4,463.90	\$3,515.00
WV-OS11	Foster care maintenance payment made for the period of time in which safety requirements were not met for the foster home [§471(a)(20)(a) of the Act; 45 CFR §1356.30(a)-(c)] Ineligible: 08/17/2012-06/26/2013	\$4,458.70	\$3,515.00
WV-OS14	Foster care maintenance payment made for the period of time in which safety requirements were not met for the foster home [§471(a)(20)(a) of the Act; 45 CFR §1356.30(a)-(c)] Ineligible: 01/18/2012-06/08/2013	\$7,395.78	\$5,564.00
NA	Subtotal	\$146,439.29	\$31,704.00

Total: \$178,143.29

Non-error Cases with Ineligible Payments

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Maintenance Payments (FFP)	Improper Administrative Payments (FFP)
WV-09	Foster care maintenance claimed outside PUR prior to judicial finding of reasonable efforts to prevent removal [§471(a)(15) of the Act; 45 CFR §1356.21(b)] Ineligible: 05/01/2012 – 05/31/2012	\$432.24	\$352.00

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Maintenance Payments (FFP)	Improper Administrative Payments (FFP)
WV-14	Foster care maintenance payment was made for services which are outside the definition of allowable title IV-E program costs (supervision & parental transportation). [§475(4) of the Act; 45 CFR §92.22] Ineligible: 03/01/2012-03/31/2012	\$341.31	\$0
WV-38	Foster care maintenance payment was made for services which are outside the definition of allowable title IV-E program costs (supervision and parental transportation). [§475(4) of the Act; 45 CFR §92.22] Ineligible: 10/01/2013-01/31/2014	\$533.18	\$0
WV-50	Foster care maintenance payment was made for services which are outside the definition of allowable title IV-E program costs (supervision and parental transportation). [§475(4) of the Act; 45 CFR §92.22] Ineligible: 09/01/2011-03/31/2013	\$3,226.60	\$0
WV-59	Foster care maintenance payment was made for services which are outside the definition of allowable title IV-E program costs (supervision and parental transportation). [§475(4) of the Act; 45 CFR §92.22] Ineligible: 03/01/2011-07/31/2011	\$437.83	\$0
WV-62	Duplicate payment. Ineligible: 03/01/2013-03/31/2013	\$397.98	\$352.00
WV-81	Foster care maintenance payment made for period outside the PUR when the agency did not have placement and care responsibility. [§472(a)(2)(B)(i) of the Act; 45 CFR §§1356.71(d)(1)(iii)] Ineligible: 11/18/2013-01/30/2014	\$856.28	\$726.00

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Maintenance Payments (FFP)	Improper Administrative Payments (FFP)
WV-82	Foster care maintenance payment made for period outside the PUR when the agency did not have placement and care responsibility [§472(a)(2)(B)(i) of the Act; 45 CFR §§1356.71(d)(1)(iii)] Ineligible: 11/08/2013-11/30/2013	\$327.01	\$363.00
WV-83	Foster care maintenance payment was made for services which are outside the definition of allowable title IV-E program costs (supervision and parental transportation). [§475(4) of the Act; 45 CFR §§ 92.22] Ineligible: 02/01/2013-02/28/2013	\$116.70	\$0
WV-104	Foster care maintenance payment made for period outside the PUR when the agency did not have placement and care responsibility [§472(a)(2)(B)(i) of the Act; 45 CFR §§1356.71(d)(1)(iii)] Ineligible: 12/24/2013-01/31/2014	\$538.63	\$363.00
WV-115	Foster care maintenance payment was made for services which are outside the definition of allowable title IV-E program costs (supervision and parental transportation). [§475(4) of the Act; 45 CFR §92.22] Ineligible: 06/01/2010-01/31/2013	\$1,373.98	\$0
WV-117	Foster care maintenance payment was made for services which are outside the definition of allowable title IV-E program costs (supervision and parental transportation). [§475(4) of the Act; 45 CFR §92.22] Ineligible: 08/01/2012-10/31/2012	\$1,086.70	\$0
WV-148	Foster care maintenance payment was made for services which are outside the definition of allowable title IV-E program costs (supervision and parental transportation). [§475(4) of the Act; 45 CFR §92.22] Ineligible: 10/01/2012-12/31/2012	\$82.99	\$0

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Maintenance Payments (FFP)	Improper Administrative Payments (FFP)
OS5	Foster care maintenance payment was made for services which are outside the definition of allowable title IV-E program costs (respite). [§475(4) of the Act; 45 CFR §92.22] Ineligible: 06/01/2013-06/30/2013	\$56.85	\$0
N/A	Subtotal	\$9,725.30	\$2,156.00

Total: \$11,881.30

Underpayments

Sample Number	Reason for Underpayment and Eligibility Period	Improper Payments (FFP)
WV-1	Foster care maintenance payment not claimed for an eligible child in a fully licensed family foster home. [§472(b)&(c) of the Act; 45 CFR §1355.20(a)] Eligible: 03/01/2013-03/21/2013	\$298.48
WV-16	Foster care maintenance payment not claimed for an eligible child in a fully licensed family foster home. [45 CFR §1356.21 and §1356.60] Eligible: 10/01/2013-10/15/2013	\$642.63
WV-21	Foster care maintenance payments were terminated in month a judicial finding of reasonable efforts to finalize the permanency plan was due while child remained eligible. [§§471(a)(15)(B)(ii) and (C) of the Act; 45 CFR §1356.21(b)(2)&(d)] Eligible: 05/01/2013-07/31/2013	\$1,040.62
WV-33	Foster care maintenance payment not claimed for an eligible child in a fully licensed family foster home. [§472(b)&(c) of the Act; 45 CFR 1355.20(a)] Eligible: 05/01/2013-05/23/2013	\$312.70

Sample Number	Reason for Underpayment and Eligibility Period	Improper Payments (FFP)
WV-60	Foster care maintenance payment not claimed for an eligible child in a fully licensed family foster home. [§472(b)&(c) of the Act; 45 CFR 1355.20(a)] Eligible: 03/01/2013-03/31/2013	\$432.24
WV-72	Foster care maintenance payments were terminated in month a judicial finding of reasonable efforts to finalize the permanency plan was due while child remained eligible. [§§471(a)(15)(B)(ii) and (C) of the Act; 45 CFR §1356.21(b)(2)&(d)] Eligible: 01/01/2014-02/28/2014	\$426.54
WV-77	Foster care maintenance payments were terminated in month a judicial finding of reasonable efforts to finalize the permanency plan was due while child remained eligible. [§§471(a)(15)(B)(ii) and (C) of the Act; 45 CFR §1356.21(b)(2)&(d)] Eligible: 11/01/2012-12/31/2012	\$864.48
WV-88	Foster care maintenance payments were terminated in month a judicial finding of reasonable efforts to finalize the permanency plan was due while child remained eligible. [§§471(a)(15)(B)(ii) and (C) of the Act; 45 CFR §1356.21(b)(2)&(d)] Eligible: 08/01/2013-08/31/2013	\$433.86
WV-96	Foster care maintenance payments were terminated in month a judicial finding of reasonable efforts to finalize the permanency plan was due while child remained eligible. [§§471(a)(15)(B)(ii) and (C) of the Act; 45 CFR §1356.21(b)(2)&(d)] Eligible: 01/01/2014-02/21/2014	\$224.42
WV-110	Foster care maintenance payments were terminated in month a judicial finding of reasonable efforts to finalize the permanency plan was due while child remained eligible. [§§471(a)(15)(B)(ii) and (C) of the Act; 45 CFR §1356.21(b)(2)&(d)] Eligible: 05/01/2013-06/30/2013	\$864.48

Sample Number	Reason for Underpayment and Eligibility Period	Improper Payments (FFP)
WV-116	Foster care maintenance payment not claimed for an eligible child in a fully licensed family foster home. [§472(b) and (c) of the Act; 45 CFR 1355.20(a)] Eligible: 08/01/2013-08/31/2013	\$286.56
WV-129	Foster care maintenance payment not claimed for an eligible child in a fully licensed family foster home. [§472(b) and (c) of the Act; 45 CFR 1355.20(a)] Eligible: 07/01/2013-07/31/2013	\$432.24
WV-OS1	Foster care maintenance payments were terminated in month a judicial finding of reasonable efforts to finalize the permanency plan was due while child remained eligible. [§§471(a)(15)(B)(ii) and (C) of the Act; 45 CFR §1356.21(b)(2)&(d)] Eligible: 11/01/2012-02/28/2013	\$1,728.96
WV-OS7	Foster care maintenance payments were terminated in month a judicial finding of reasonable efforts to finalize the permanency plan was due while child remained eligible. [§§471(a)(15)(B)(ii) and (C) of the Act; 45 CFR §1356.21(b)(2)&(d)] Eligible: 06/01/2013-06/30/2013	\$433.86
WV-OS9	Foster care maintenance payments were terminated in month a judicial finding of reasonable efforts to finalize the permanency plan was due while child remained eligible. [§§471(a)(15)(B)(ii) and (C) of the Act; 45 CFR §1356.21(b)(2)&(d)] Eligible: 03/01/2012-03/31/2013	\$5,645.98
WV-OS15	Foster care maintenance payments were terminated in month a judicial finding of reasonable efforts to finalize the permanency plan was due while child remained eligible. [§§471(a)(15)(B)(ii) and (C) of the Act; 45 CFR §1356.21(b)(2)&(d)] Eligible: 08/01/2013-08/31/2013	\$432.24

Total: \$14,500.29

Areas in Need of Improvement

The findings of this review indicate West Virginia needs to further develop and implement procedures to improve program performance in the following areas. For each issue, there is a discussion of the nature of the area needing improvement, the specific title IV-E requirement to which it relates and the corrective action the state should undertake.

Issue #1: *Safety Considerations for Staff at Child Care Institutions*

Documentation that ensures safety considerations for caregiver staff working in child care institutions was not readily available during the onsite review. There was a lack of appropriate documentation for 33 facilities in the licensing files. West Virginia, as noted previously, needed to gather and submit supplemental materials after the onsite review. Following an examination of the documentation, the compliance rating for 23 of the affected cases was changed from error to non-error. Nine (9) cases remained in error because the safety requirements for staff of the childcare facility were not documented for the child's placement during the PUR.

State policy requires that applicants of child care facilities complete: a statement of criminal record; a Child Protective Service clearance; and a West Virginia criminal investigation background check. Additionally, a criminal record check of the National Crime Information Database (NCID) is required for child care facility applicants that have resided outside of West Virginia. New hires are permitted to work at facilities prior to receipt of the results of these checks if supervised at all times and not alone with children; documentation was often not available for reviewers to ensure that this requirement was met. Cases were reviewed in which the state requirement for a NCID check of applicants that have resided out of state was not met. It does not appear all facilities in the state comply with this requirement.

State policy allows licensing staff to complete a 10% check of personnel files to confirm facilities comply with state safety standards. However, the state does not require licensing staff to issue a report on a facility found to be in full compliance. As there were no licensing reports to confirm the state's processes were followed, documentation was gathered from facilities for 100% of staff to demonstrate that the state is meeting its safety standards. It was found that several facilities did not collect any information or were missing key documents to ensure that staff met standard safety requirements.

Title IV-E Requirement: As specified in section 471(a)(20) of the Act, 45 CFR §§1356.30(f) and 1356.71(g), the licensing file for a child care institution must contain documentation which verifies that safety considerations with respect to the caregiver staff of the facility have been addressed in order for a child placed in the institution to be eligible for title IV-E funding. The state must provide documentation validating that all safety considerations established by the state are satisfied for the duration of the child's placement during the PUR.

Recommended Corrective Action: West Virginia should review its licensing process to determine whether there are sufficient controls to prevent a child from being placed in a potentially unsafe child care institution. The DHHR should examine its process for documenting safety considerations made by licensing staff. Currently, licensing staff do not retain records for facilities that have no identified deficiencies. This lack of documentation does not allow verification that safety considerations are satisfied. The state should ensure an adequate record retention policy is established and implemented, consistent with federal requirements at

45 CFR §92.42 so the appropriate documentation is maintained to demonstrate that safety checks of staff are monitored in accordance with state policy during their regular licensing inspections. The state should further clearly communicate state policy to residential child care facilities to ensure provider compliance with all safety requirements.

Further, facilities should ensure that staff members, especially those who resided out of state have appropriate safety considerations satisfied by completing NCID checks in accordance with state policy. The state should examine its process of record retention and data entry to ensure that facilities can share adequate documentation that the facility has complied with all safety requirements.

Issue #2: *Safety Considerations for Foster Family Homes*

Five (5) cases were in error because the safety requirements for foster family homes were not met timely in accordance with the Act and federal regulations, including a fingerprint-based check of the NCID. The state should consider improvements to its system for ensuring prospective foster parents have completed the required criminal records checks. All cases found to be in error were licensed and supervised by child placing agencies with which the state contracts for this purpose.

Title IV-E Requirement: As specified in section 471(a)(20) of the Act and 45 CFR §1356.30(f), the licensing file of a state or its contracted child placing agency must contain documentation which verifies that criminal records checks are conducted with respect to the foster family homes in order for a child placed in the home to be eligible for title IV-E funding. For homes newly licensed on or after October 1, 2008, the state must ensure that the criminal records check completed on these providers includes a fingerprint-based check of the NCID. The state must provide for the IV-E review documentation validating that these safety considerations are satisfied for the duration of the child's placement during the PUR for which title IV-E foster care maintenance payments are claimed.

Recommended Corrective Action: West Virginia's licensing process should be reviewed to determine whether there are sufficient controls to prevent children from being placed in potentially unsafe foster family homes. Licensing workers should ensure that all foster parents receive a fingerprint-based check of the NCID if the home is newly licensed on or after October 1, 2008. The state must validate that the checks were completed for the period claimed for FFP. The state should also consider implementing a quality assurance process that periodically reviews the safety check requirements for all foster homes as well congregate care facilities. State licensing staff should ensure contracted child placing agencies license only homes which have met the safety requirements and that adequate documentation is maintained.

Issue #3: *Placement and Care Responsibility*

During the onsite review, cases were examined to ensure that the title IV-E agency maintained responsibility for the placement and care of the child for the PUR. Placement and care responsibility may be granted in the removal court order or in a subsequent court ruling for a judicial removal. The review found five (5) error cases for which title IV-E funds were claimed for the period in the PUR West Virginia no longer maintained responsibility for the placement and care of the child: in three (3) cases title IV-E continued to be claimed after a child's adoption had been finalized; in one (1) case after the child was reunified with a parent; and in one (1)

case a child exited foster care for kinship care. There were also three (3) non-error cases with ineligible payments in which title IV-E funds were claimed for a period outside the PUR after a child had exited foster care.

Title IV-E Requirement: Section §472(a)(2) of the Act requires that the responsibility for placement and care of a child be vested with the state agency administering the title IV-E plan approved under section 471 of the Act, or any other public agency with whom the state agency has a written agreement in effect. The state agency must present documentation during a title IV-E foster care eligibility review that it has responsibility for placement and care of the child for the entire period for which title IV-E maintenance payments are claimed during the foster care episode. The court order or voluntary placement agreement must indicate that the agency has this responsibility.

Recommended Corrective Action: West Virginia should review procedures to determine whether the appropriate fiscal controls are in place to ensure that title IV-E foster care maintenance and administrative payments are no longer claimed for children who have achieved their permanency goals and exited foster care. Particular attention should be given to finalized adoptions. West Virginia DHHR needs to ensure its process for payment reconciliations is applied when payments are made in error for children who had exited care. When information about a change in a child's eligibility status is not entered timely, there should be oversight that ensures payments are reconciled if a title IV-E foster care payment was erroneously claimed.

Issue #4: *Payments outside the scope of maintenance payments*

In eight (8) cases reviewed it was found payments were made for title IV-E eligible children during and outside the PUR for activities outside the scope of foster care maintenance payments. West Virginia provides state funds through Administrative Services Organizations (ASOs) for socially necessary services to children in foster care. These services include costs for transportation and supervision outside the daily supervision of a foster child. Services such as supervision of visits and transportation for parents to visitation are not allowable cost items as title IV-E maintenance payments.

Additionally, in one (1) non-error case with ineligible payments the state made a duplicative payment for the same activity in a month. In another non-error case with ineligible payments, title IV-E funds were claimed for the month before the judicial finding that the agency had made reasonable efforts to prevent the child's placement.

Title IV-E Requirement: Section 475(4) of the Act specifies costs which may be included in a title IV-E maintenance payment. Only allowable expenditures included at section 475(4) of the Act may be claimed for title IV-E FFP and must reflect non-duplicative amounts of the costs of daily maintenance. The state must document that payments claimed for title IV-E reimbursement are allowable expenditures in accordance with the statutory definition and reflect non-duplicative amounts of the costs of daily maintenance.

The state also must substantiate payments are claimed for title IV-E reimbursement only for the period in which the child meets all eligibility requirements. Consistent with section 472 of the act, title IV-E claiming may not begin until the first day of placement in the month in which all eligibility requirements are met.

Recommended Corrective Action: West Virginia must ensure that ASO services are appropriately charged to state-only funds when the payment is for activities outside the scope of foster care maintenance. Following the 2011 title IV-E primary review, the state implemented changes to the cost center to which ASO services are charged. Some cases reviewed included ASO payments that were appropriately charged to an organizational code which contains state-only funds. All payments that fall under ASO services which are not considered foster care maintenance should have the appropriate organization code applied to the costs in order to ensure that payments are not claimed for title IV-E FFP.

In general, staff training will help to ensure eligibility decisions are made accurately. The establishment of a quality assurance system will allow DHHR to monitor the accuracy of title IV-E eligibility determinations and claiming.

Opportunities to improve claiming

Opportunities to increased appropriate claiming were identified in 16 cases reviewed. In five (5) cases it was found the state did not claim for an eligible child from the first day of the month in which the foster home was fully licensed. The state started claiming FFP from the actual date in which the home became fully licensed, not the first day of the month in which all eligibility criteria was satisfied.

In an additional five (5) cases reviewed, the state ceased claiming title IV-E funds when there was not a judicial determination that the agency is making reasonable efforts to finalize the permanency plan within twelve months of the date the child entered foster care as federally defined. The date a child is considered to have entered foster care for the purpose of determining title IV-E eligibility is the earlier of sixty days of removal from the home or the date of an adjudication of abuse or neglect. The state ended claiming for cases when the requirement that a judicial finding the agency is making reasonable efforts to finalize a child's permanency plan was not made within twelve months of the date the child was physically removed from the home, which could be up to sixty days earlier than required.

In six (6) other cases reviewed, title IV-E claiming ended despite the child having met all federal requirements. The DHHR staff indicated that any updates entered into FACTS, the state SACWIS, including those unrelated to title IV-E eligibility, can affect the eligibility status of a child and change the funding source of payments.

Recommendations for improvements: West Virginia should consider developing a process to review cases in which a license is initially issued to a provider caring for an eligible child to ensure that title IV-E payments are claimed from the first day of the month that all other title IV-E requirements are satisfied.

The state should consider using the earlier of sixty days from the physical removal of an eligible or the date of the adjudication of abuse or neglect to determine when a judicial finding that the agency is making reasonable efforts to finalize a child's permanency plan is due. Since the state uses an earlier date to calculate when a permanency hearing is due, FACTS ends title IV-E claiming after twelve months from the date of a child's physical removal from the home, resulting in case for which title IV-E payments could have been claimed for greater periods of time.

West Virginia should consider changes to ensure any update to FACTS does not unintentionally end title IV-E claiming for an eligible child. The state reported that it is working on a solution to this problem by examining a program in which information is stored into a “loading zone” so that changes in FACTS will not inappropriately change a child’s title IV-E eligibility status due to data entry that disrupts the case.

The state may also consider changes to its policy to not claim costs for clothing on behalf of title IV-E eligible children. Though not cited as an underpayment, it was noted during the onsite review that there were several cases for which the costs of clothing for title IV-E eligible children were charged to state funds. The DHHR staff reported that there were some concerns that specific vendors could not be reimbursed for clothing costs. It should be noted that despite the vendor, clothing is an allowable cost for children who otherwise meet title IV-E eligibility requirements.

Strengths & Promising Practices

The following positive practices and processes of the title IV-E foster care eligibility program were observed during the review. These approaches seem to have led to improved program performance and successful program operations.

Judicial Findings

No case was found to be in error for this reason. All cases reviewed included the required judicial contrary to the welfare finding in the initial removal order. Court orders were reviewed which included the specific circumstances which made it contrary to the welfare of a child to remain in the home as well as the efforts made by the agency to prevent placement. There was some variation based on geographic locations regarding the quality of orders, but several court orders detailed the agency's efforts, demonstrating model child-specific findings. The DHHR staff noted that the collaborative work with the CIP since the last title IV-E eligibility review has helped to achieve greater consistency in judicial determinations.

Timely judicial determinations that the agency is making reasonable efforts to finalize a child's permanency plan also were found in all cases and in many cases more frequently than the annual requirement. In addition, court orders were reviewed which detailed the specific efforts made by the agency to achieve permanency for a child. Frequent permanency hearings provide greater judicial oversight about case planning and placement decisions. Greater judicial oversight can result in increased agency involvement with a family and service providers which may lead to positive outcomes for the child. State staff attributed improvements in part to the collaborative efforts with CIP which has also helped to achieve greater consistency in initial judicial determinations.

Reviewers noted timely permanency decisions especially regarding the adoption of children. Parental rights were terminated and adoptions were often finalized before the federally recommended timeframes, helping children achieve timely finalization of permanency plans. Reviewers also noted that the cases did not typically have multiple placements within the PUR. Placement stability is a strength that can lead to timely achievement of permanency goals and increased well-being for children through a stable home environment while in out of home placement.

AFDC Eligibility

Findings related to AFDC were found in all sample cases reviewed. The state appears to have implemented a solid practice for determining AFDC as no cases were found to be in error related to AFDC requirements. It appears that work completed in accordance with the title IV-E PIP and the ongoing work groups formed by that PIP have produced positive results and consistent compliance with AFDC requirements. PIP activities included monthly sessions with title IV-E staff to review issues related to AFDC eligibility requirements identified through the quality assurance (QA) process and quarterly trainings with title IV-E staff on completing correct AFDC eligibility determinations. The completion of QA on eligibility determinations, with a focus on AFDC requirements, appears to have increased the accuracy of determinations.

Provider Licensure

The process for licensing foster family homes and group home facilities was well documented in the cases reviewed with few lapses in licensure. Title IV-E claiming was ended if the foster home or facility was no longer fully licensed. No ineligible payments were found for this reason. The West Virginia SACWIS now ensures payments are made only to fully licensed facilities by preventing the state accountings system (FIMS) from distributing disbursements to unlicensed facilities. Following the 2011 review, BCF policy staff also worked with SACWIS staff to ensure that the correct financial edits were in place to prevent payments for ineligible children.

Disallowance

A disallowance in the amount of \$156,164.59 in maintenance payments and \$33,860 in related administrative costs of FFP is assessed for title IV-E foster care payments claimed for the error cases and non-error cases with ineligible payments. The total disallowance as a result of this review is \$190,024.59 in FFP. The state must identify and repay any ineligible payments that occurred for the error and non-error cases subsequent to the PUR. No future claims should be submitted on these cases until it is determined that all eligibility requirements are met.

Next Steps

As part of the West Virginia's ongoing efforts to improve its title IV-E foster care eligibility determination process, the CB recommends that DHHR examine identified program deficiencies and develop measurable, sustainable strategies that target the root cause of problems hindering the state from operating a fully accurate foster care eligibility program. Appropriate corrective action should be taken in instances of noncompliance with Federal laws and regulations.

During the onsite phase of this review there were numerous additional cases that were initially found to be in error or as having an ineligible payment due to lack of documentation in case records that safety standards were met. This required extensive efforts on the part of the DHHR to identify and provide the necessary documentation. It also required extensive efforts on the part of CB and RO Grants Management staff to review the supplemental information once submitted to determine whether the eligibility criteria were met and title IV-E foster care maintenance payments were properly claimed. Nineteen (19) of the original forty-six (46) error cases were reversed after the appropriate documentation was provided in the period following the onsite review.

Keeping informed about current federal laws and regulations is necessary for West Virginia to ensure compliance with title IV-E eligibility requirements. It is also necessary to ensure that adequate case documentation and routine case maintenance are current for all eligibility requirements, including safety requirements for childcare institutions and foster family homes. Finally, it is necessary for West Virginia to ensure title IV-E payments are claimed only for eligible children and allowable program activities and those payments are claimed for the maximum period permissible. Appropriate corrective action should be taken in instances of noncompliance with federal laws and regulations. The CB RO will continue to provide technical assistance to West Virginia in these efforts.